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THE THIRD ANNUAL MEETING OF THE AMERICAN SOCIETY OF INTERNATIONAL LAW

Pursuant to the announcement made in the January issue of the JOURNAL, the American Society of International Law held its third annual meeting at Washington, Friday and Saturday, April 23 and 24, 1909, at the New Willard Hotel, closing with the annual banquet, at which one hundred and twenty-three members and guests were present. The program committee attempted to give continuity to the proceedings and by selecting the speakers carefully in advance to maintain the high standard of the first two meetings. How far the committee was successful in its endeavors will appear from the Proceedings of the Third Annual Meeting, now in press.

The program may conveniently be divided into three parts. First,

the discussion of arbitration as a judicial remedy and the consideration of the principles upon which a permanent judicial court of arbitration shall be based; secondly, the nature and definition of political offence in international extradition; and thirdly, the development of international law by judicial decisions in the United States. In addition three subjects of special and timely interest were called to the attention of the Society; (1) the results of the Naval Conference of 1908-1909, at London, by Rear Admiral Stockton, a delegate plenipotentiary at the Conference; and Rear Admiral Sperry, a delegate plenipotentiary at the Second Hague Conference; (2) an account of the labors of the International Opium Commission which met at Shanghai, February 26, 1909, with an explanation of the importance of the nine resolutions adopted thereby, and the effort to control the opium market in the interest of the world, by Dr. Hamilton Wright, one of the American delegates to the commission; (3) a carefully prepared paper upon "American International Law" by Señor Alejandro Alvarez, legal adviser to the Chilean ministry of foreign affairs, in which the author summarized the results developed at great length in his admirable article printed in the April issue of the JOURNAL.¹ If it be technically correct to say that there is an American International Law, it is eminently proper to insist that there is an American as distinct from a European policy and the connection between international law and international policy is too apparent to escape the reader's notice. As indicative of the great interest Señor Alvarez takes in the scientific recognition of his thesis, it should be stated that he made the trip from Chile to Washington in order to attend the meeting of the Society.

Without describing in detail the proceedings or attempting to give a survey either of the papers within each group or of the conclusions reached by the speakers of each group, it should be said that the consensus of opinion was that arbitration as practiced in the last hundred years has not always been a judicial remedy, that the composition of the mixed tribunal in which nationals of the litigating parties sit, that the temporary nature of the tribunal called into being for a case and passing out of existence with its decision, prevent the development of a compact body of international precedent; that both the composition of the tribunal and its temporary nature have failed to maintain a continuity in the development of arbitral jurisprudence. It was evident both to the

¹ P. 269.

speakers and the meeting that arbitration might be made a judicial remedy and the papers read on Saturday morning indicated the establishment of a permanent court of arbitration composed of a limited number of judges instead of diplomats, as the sure and certain means of rendering arbitration judicial in fact as well as in theory. The Supreme Court of the United States was referred to as a possible model for a court which it is hoped may do the same for forty-six nations that the Supreme Court does for forty-six states of the American union. Enlightened public opinion insists upon the establishment of a court and there is no doubt that its constitution would be hailed as a veritable triumph for law and justice. Were it possible to assign to each independent nation a judge the court might spring into being over night. As, however, the number of judges must be limited some states will of necessity fail to be represented in the court, and the difficulty is to devise a method of composition which shall neither question the juridical equality of states nor wound the susceptibility of the states not represented in the court at any particular time. The doctrine of the equality of states as having a close bearing upon the composition of the court was discussed at considerable length as will be seen from the proceedings.

It can not be said that any definite conclusion was reached in the matter of political offence, but the discussion was valuable for the fact that the theory of extradition was examined with great care, the practice of the United States set forth historically and justified; and the views which would eliminate on the one hand and on the other enlarge political offence were presented to the meeting and discussed by its members on the floor.

The session on Friday evening showed conclusively that at least in the United States international law is regarded as an integral part of our municipal law and that questions arising between individuals and nations susceptible of judicial treatment had been repeatedly passed upon by our courts. It was shown by an analysis of cases that the Supreme Court of the United States and the Court of Claims have argued, debated, and decided a great variety of cases involving international law, to such an extent that the decisions of these two courts form no inconsiderable source of modern international law. These judgments, recognized alike by writers of authority and foreign governments, as correctly interpreting the law of nations, show beyond the possibility of criticism or controversy that international law is susceptible of judicial treatment, and that it,

like any branch of municipal law, may be logically and consistently developed by courts of justice. The usefulness if not absolute necessity of an international court, in which nation may sue nation, or appear on behalf of their subjects or citizens, was clearly demonstrated. The law of nations is in its very nature international and while it may be and often is, treated from a national standpoint, it is nevertheless to be regarded as a universal system binding upon nations by the mere fact that they are members of the international community. It may be, however, that nations would be more willing to establish an international court, to interpret a body of existing, clearly defined and ascertained law, than to entrust to an untried international court the codification of the law of nations. Great Britain was unwilling to accept the recent Hague Convention establishing the court of prize unless the law to be administered by it was ascertained in advance and for this purpose called a conference to consider maritime international law. The Declaration of London, signed on February 26, 1909, codifies in a wholly acceptable manner existing and divergent practice. The American Society of International Law felt that a great step would be taken in advance to secure the establishment of an international court of arbitration if the law to be administered by this august tribunal was codified. A resolution to this effect was therefore presented and adopted, and it is to be hoped a definite aim and purpose thus given to the society, will result in a codification worthy of acceptance:

Whereas the arbitration of questions of a legal nature between nations is recognized as the most effective and, at the same time, the most equitable means of settling disputes which diplomacy has failed to settle; and

Whereas the establishment of a permanent court of international arbitration is predicated upon principles of justice universally recognized; therefore, be it

Resolved, that the President of the American Society of International Law shall appoint a committee of seven members, of which he shall be ex officio the chairman, to report to the annual meeting of this society in 1911 a draft codification of those principles of justice which should govern the intercourse of nations in time of peace; and make a preliminary report, if possible, in 1910, and sufficiently in advance of the meeting to be a subject of discussion at the Fourth Annual Meeting.

The third annual banquet on Saturday evening was presided over by Mr. Root, as toastmaster, and the Attorney General, Hon. George W. Wickersham; Messrs. Lyman Abbott, Samuel J. Elder, Robert S. Woodward, and General Horace Porter, spoke.